

Select Committee on Pension Policy

P.O. Box 40914
Olympia, WA 98504-0914
actuary_st@leg.wa.gov

Gain-Sharing Subgroup

November 28, 2005
House Hearing Room D
10:00 AM - NOON
Olympia

AGENDA

- | | | |
|----------|-----|--|
| 10:00 AM | (1) | Approval of Minutes |
| 10:05 AM | (2) | Plan 3 to Plan 2 Transfer Window - Matt Smith, State Actuary |
| 10:30 AM | (3) | Decision Factors for Recommendation - Robert Wm. Baker, Senior Research Analyst |
| 11:30 AM | (4) | Stakeholder Input |
| 11:45 AM | (5) | Subgroup Recommendation |
| NOON | (6) | Adjourn |

Subgroup Membership: (*voting members*) Representative Fromhold (chair), Senator Fraser, Senator Mulliken, Representative Crouse, Ms. Banks, Mr. Goeke, Ms. Matheson, Mr. Thompson; (*non-voting members*) Sophia Byrd McSherry, Jim Justin, Ken Kanikeberg, John Kvamme, Christopher Liu, Lynn Maier, Leslie Main, Ellie Menzies, Randy Parr, Wendy Rader-Konofalski, Cassandra de la Rosa.

Stakeholder groups are encouraged to appoint an individual representative from their organization as a non-voting member if interested.

Persons with disabilities needing auxiliary aids or services for purposes of attending or participating in Select Committee on Pension Policy meetings should call (360) 753-9144. TDD 1-800-635-9993

***Elaine M. Banks**
TRS Retirees

Representative Barbara Bailey

Lois Clement
PERS Retirees

Representative Steve Conway

Representative Larry Crouse

***Senator Karen Fraser,**
Vice Chair

***Representative Bill Fromhold,**
Chair

***Leland A. Goeke**
TRS and SERS Employers

***Robert Keller**
PERS Actives

***Sandra J. Matheson,** Director
Department of Retirement Systems

Corky Mattingly
PERS Employers

Doug Miller
PERS Employers

Victor Moore, Director
Office of Financial Management

Senator Joyce Mulliken

Glenn Olson
PERS Employers

Senator Craig Pridemore

Diane Rae
TRS Actives

J. Pat Thompson
PERS Actives

David Westberg
SERS Actives

*** Executive Committee**

(360) 786-6140
Fax: (360) 586-8135
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GAIN-SHARING SUBGROUP DRAFT MINUTES

November 2, 2005

The Gain-Sharing Subgroup met in House Hearing Room C, Olympia, Washington on November 2, 2005.

Voting Members:

Representative Fromhold, Chair	Leland Goeke
Senator Fraser	Sandra Matheson
Representative Crouse	Senator Mulliken
J. Pat Thompson	

Non-Voting Members:

Sophia ByrdMcSherry	Leslie Main
Jim Justin	Randy Parr
John Kvamme	Wendy Rader-Konofalski
Cassandra de la Rosa	

Representative Fromhold, Chair, called the meeting to order at 10:00 AM.

(1) Approval of Minutes

It was moved to approve the October 17, 2005 minutes.
Seconded.

MOTION CARRIED

(2) Attorney General Opinion

Matt Smith, State Actuary, announced that the Attorney General (AG) Opinion had arrived this morning and he reviewed the brief answer provided on page one of the document.

It was requested that Assistant Attorney General (AAG), Spencer Daniels and AAG Anne Hall briefly walk through the opinion.

Discussion followed.

(3) Updated Fiscal Note - HB 1324

Matt Smith, State Actuary, presented the 2006 updated Draft Fiscal Note on HB 1324 and a Supplement to HB 1324 Fiscal Note.

Discussion followed.

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(4) Contribution Rate Projections

Marty McCaulay, Senior Pension Actuary, reviewed tables on "Contribution Rate Projections".

Discussion followed.

(5) Gain-sharing Projections

Marty McCaulay, Senior Pension Actuary, reviewed a memo addressed to Sandra J. Matheson, Director of Department of Retirement Systems, regarding "Calculation of Extraordinary Investment Gains for 2006" as well as a handout entitled "2008 Gain-Sharing Projections". Matt Smith, State Actuary, warned members and the audience that this document should be used with caution.

Discussion followed.

(6) Report Preview

Robert Wm. Baker, Senior Research Analyst, presented the "Gain-sharing Report Preview Key Findings" as well as some policy questions that might be considered when formulating a recommendation.

Discussion followed.

(8) Subgroup Findings/Recommendation

It was discussed by subgroup members that HB 1324 (2005) was too complex and that many issues within the bill should be prepared as separate pieces of legislation for 2006. The subgroup will report the Full Committee at the November 15, 2005 meeting, but not bring forth a recommendation until the December 13, 2005 meeting.

The meeting adjourned at 12:42 PM.

Select Committee on Pension Policy

Plan 3 to Plan 2 Transfer Window

(November 23, 2005)

Issue

With the inception of the Plans 3, active members of the Plans 2 of PERS, TRS, and SERS were provided opportunities to transfer to their respective Plans 3. These transfers occurred during specific windows of time, or transfer periods. Those who transferred during these specific periods were provided with “transfer payments” as compensation to account for the difference in the “normal” or ongoing costs of the plans.

The informational material available to PERS, TRS, and SERS members who were considering this transfer did not specifically note that one of the Plan 3 benefits – gain-sharing – was not a contractual right and thus subject to amendment or repeal by the legislature. Similarly, the information currently available to new PERS members who have a choice to join either Plan 2 or Plan 3, does not mention the non-contractual nature of gain-sharing.

Eligibility

If gain-sharing is repealed, it may be appropriate to provide current members of the Plans 3 who transferred from the Plans 2 an opportunity to return to the Plans 2. In light of the SCPP deliberations on plan choice for TRS and SERS, it may also be appropriate to allow all current members who joined PERS, TRS, and SERS Plans 3 when newly hired an opportunity to transfer to Plan 2. Providing such a transfer opportunity could remove a significant source of potential litigation that might result from a repeal of gain-sharing. Such a transfer could be either prospective or retroactive.

Prospective Option

A prospective transfer option would allow members to transfer or return to the Plans 2 but they would retain their membership and service credit in their respective Plan 3 and be subject to amended portability provisions upon retirement.

Under a prospective transfer option...

- Members would be given a period (window) during which they would need to choose between membership in Plan 3 or Plan 2.
- Those members choosing to transfer to Plan 2 would then become dual members of Plan 3 and Plan 2.
- Those who transferred to Plan 2 would cease making contributions to their Plan 3 defined contribution account and begin making employee contributions to Plan 2.

A statutory change would be required to allow a dual Plan 3-Plan 2 member to combine service in both plans to determine eligibility for retirement.

A statutory change would also be required to allow dual Plan 3-Plan 2 members to be eligible for the indexed terminated-vested employer defined benefit in Plan 3 after a combined 20 years of service.

Retroactive Option

A retroactive transfer option would allow Plan 3 members to transfer or return to the Plans 2, rescind their membership in the Plans 3, and be given a period of time to make the equivalent member contributions to establish Plan 2 service credit for the period they were in Plan 3.

Under a retroactive transfer option ...

- Members would be given a period (window) during which they would need to choose between Plan 3 or Plan 2.
- Those choosing to transfer to Plan 2 would then rescind their membership in Plan 3.
- Transferees would begin making member contributions to Plan 2.
- The Department would make a determination of the cost to transfer the member's Plan 3 service credit to Plan 2 based on what the member's contributions would have had they been in Plan 2 plus interest.
- Members would have a five-year period from the date of their election in which they could make the necessary transfer payment.
- The members would be allowed to pay all or part of the transfer payment with a lump-sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan.

- At the end of the five-year period, members who have not made the complete payment would have their service credit pro-rated based on the payments made to that date.

Prospective and Retroactive

In the legislation allowing Emergency Medical Technicians to transfer into the Law Enforcement Officers' and Fire Fighters' retirement system, members were given both prospective and retroactive options. This could also be an option for a Plan 3 to Plan 2 transfer window.

Prospective Issues

The prospective (portability) option would require some policy changes. The existing portability provisions define dual members as members of two or more different systems, not members of different plans within the same system. Currently, a terminated-vested Plan 3 member who is at least 55 years of age with at least ten years of service may continue participation in Public Employees' Benefits Board (PEBB) health insurance programs. It is unclear how this terminated-vested benefit would be accommodated under a transfer proposal.

Retroactive Issues

Plan 3 qualification from the IRS is conditioned on the fact that the trust funds supporting the Plan 3 member accounts (DC) are separate and distinct from the combined Plan 2/3 defined benefit (DB) trust funds. The hybrid Plan 3 designs for PERS, TRS, and SERS all received a favorable determination from the IRS, but after significant scrutiny. Would it be advisable to make a transfer between DC and DB trust funds in light of plan qualification concerns for the hybrid Plans 3? It may be worthwhile to get the advice of tax counsel on this issue.

Estimated Fiscal Impact

Any Plan 3 to Plan 2 transfer proposal, whether prospective or retroactive, will increase costs for the affected systems since prospective service credit in Plan 2 is more expensive than in Plan 3. This is due to the shorter vesting period and guaranteed return of contributions benefit (with guaranteed five and one-half percent interest) in Plan 2.

Prospective Transfer Option - All Current Plan 3 Members

Increase in Contribution Rates: (Effective 9/1/2006)			
Current Members	PERS	SERS	TRS
Employee	0.01%	0.16%	0.18%
Employer State	0.01%	0.16%	0.18%

Fiscal Budget Determinations:				
Costs (in Millions):	PERS	SERS	TRS	Total
2006-2007				
State:				
General Fund	\$0.1	\$0.6	\$4.0	\$4.7
Non-General Fund	<u>\$0.2</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.2</u>
Total State	\$0.3	\$0.6	\$4.0	\$4.9
Local Government	\$0.2	\$0.9	\$2.2	\$3.3
Total Employer	\$0.5	\$1.5	\$6.2	\$8.2
2007-2009				
State:				
General Fund	\$0.2	\$1.4	\$8.3	\$9.9
Non-General Fund	<u>\$0.4</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.4</u>
Total State	\$0.6	\$1.4	\$8.3	\$10.3
Local Government	\$0.6	\$2.0	\$4.2	\$6.8
Total Employer	\$1.2	\$3.4	\$12.5	\$17.1
2006-2031				
State:				
General Fund	\$1.7	\$10.0	\$79.9	\$91.6
Non-General Fund	<u>\$3.6</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$3.6</u>
Total State	\$5.3	\$10.0	\$79.9	\$95.2
Local Government	\$4.6	\$14.8	\$40.0	\$59.4
Total Employer	\$9.9	\$24.8	\$119.9	\$154.6

Prospective Transfer Option - Plan 2 to Plan 3 Transfers Only

Increase in Contribution Rates:

(Effective 9/1/2006)

Current Members

	PERS	SERS	TRS
Employee	0.01%	0.12%	0.13%
Employer State	0.01%	0.12%	0.13%

Fiscal Budget Determinations:

Costs (in Millions):

2006-2007

State:

General Fund \$0.1 \$0.5 \$2.9 \$3.5

Non-General Fund \$0.2 \$0.0 \$0.0 \$0.2

Total State **\$0.3** **\$0.5** **\$2.9** **\$3.7**

Local Government \$0.2 \$0.7 \$1.6 \$2.5

Total Employer \$0.5 \$1.2 \$4.5 \$6.2

2007-2009

State:

General Fund \$0.2 \$1.0 \$6.0 \$7.2

Non-General Fund \$0.4 \$0.0 \$0.0 \$0.4

Total State **\$0.6** **\$1.0** **\$6.0** **\$7.6**

Local Government \$0.6 \$1.6 \$3.0 \$5.2

Total Employer \$1.2 \$2.6 \$9.0 \$12.8

2006-2031

State:

General Fund \$1.7 \$7.4 \$57.5 \$66.6

Non-General Fund \$3.6 \$0.0 \$0.0 \$3.6

Total State **\$5.3** **\$7.4** **\$57.5** **\$70.2**

Local Government \$4.6 \$11.2 \$29.0 \$44.8

Total Employer \$9.9 \$18.6 \$86.5 \$115.0

Retroactive Transfer Option

Fiscal budget determinations not available at this time.

Policy Questions

Should a Plan 3 to Plan 2 transfer proposal include only those who transferred to the Plans 3 or all current Plan 3 members?

Should a plan transfer proposal be prospective, retroactive, or both?

If the transfer is retroactive, shall the cost to transfer specifically include or exclude transfer payments and gain-sharing distributions?

If the transfer is retroactive, shall members be allowed to establish partial service credit in Plans 2 for the time served in Plans 3?

If the transfer is prospective, shall all plan 3 terminated-vested benefits follow Plan 3 members transferring to Plan 2?

How should the subgroup best address potential IRS or administrative concerns surrounding the retroactive transfer proposal?

Select Committee on Pension Policy

Decision Factors for Gain-Sharing Recommendation

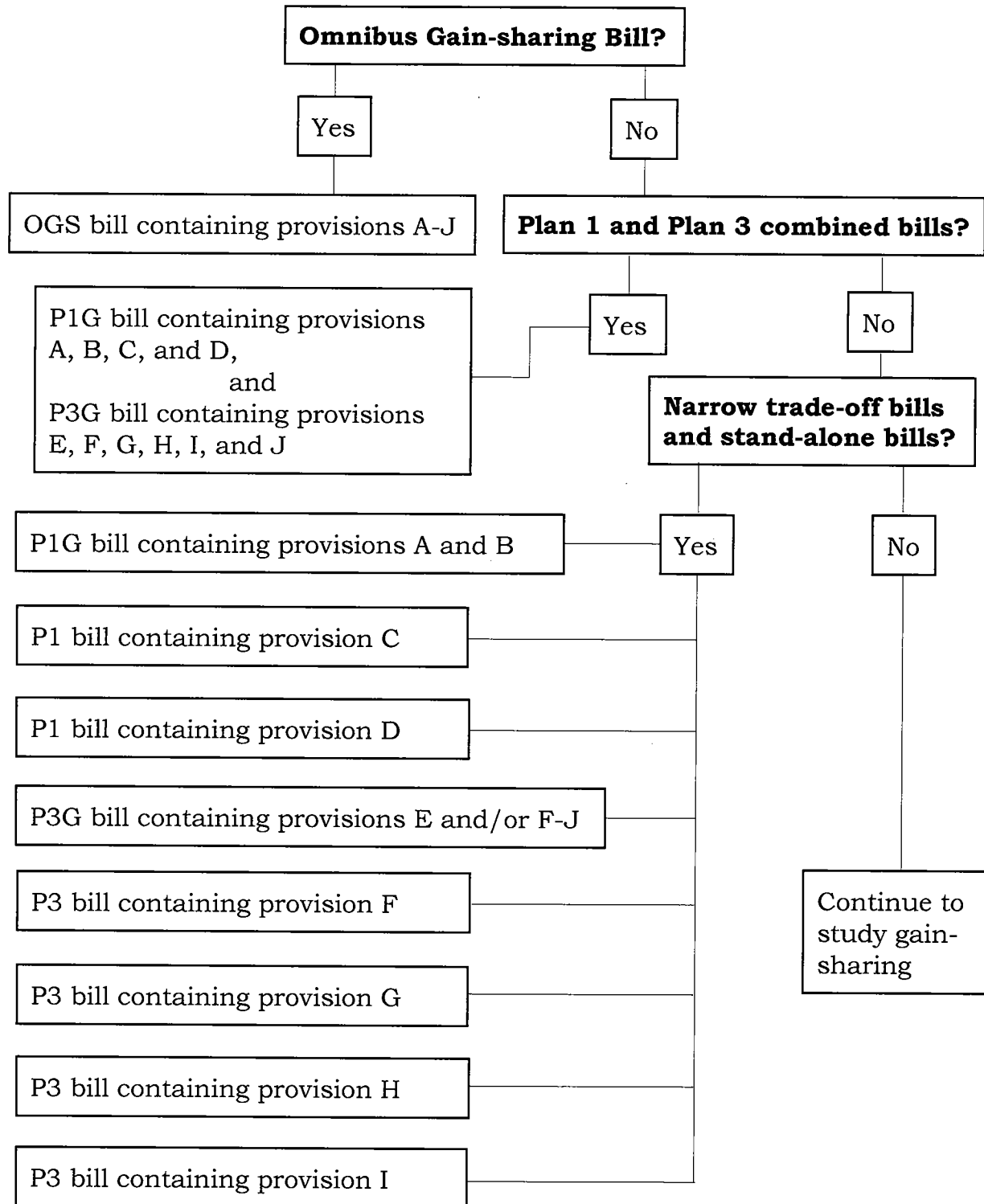
(November 23, 2005)

Bill Type

1. Omnibus Gain-sharing bill (OGS)
2. Plan 1 Gain-sharing trade-off bill (P1G)
3. Plan 1 Stand-alone bill (P1)
4. Plan 3 Gain-sharing trade-off bill (P3G)
5. Plan 3 Stand-alone bill (P3)

Bill Provisions

- A. Repeal Plan 1 Gain-sharing
- B. Increase in the Annual Increase Amount for Plan 1 COLAs (amount to be determined)
- C. Age 66 eligibility for receipt of Plan 1 Uniform COLA
- D. Plan 1 alternative \$1,000 minimum benefit at 20 years of service and 25 years of retirement, and indexing of Alternative \$1,000 minimum benefits by 3% per year.
- E. Repeal Plan 3 Gain-sharing
- F. TRS and SERS Plan 2/3 Choice
- G. Plan 3 Employer Defined Contributions (\$ amount to be determined) per year of service indexed by 3% per year.
- H. Plan 2/3 Rule-of-90
 - i. Minimum age 60, prospective,
 - ii. Minimum age 60, all service, or
 - iii. No modifications, full rule-of-90.
- I. Plan 3 to Plan 2 Transfer
 - i. Prospective, or
 - ii. Retroactive
- J. Plan 3 Five-Year Vesting



RECEIVED

NOV 08 2005

Office of
The State Actuary

11/03/05

Dear Ladies and Gentlemen,

I attended the Select Committee on Pension Policy gain-sharing subgroup meeting, which occurred November 2, 2005. At this session the opinion of the Attorney General was shared concerning the gain sharing benefits of Pension Plans 1 and 3. In short, the opinion stated that the Legislature could take away gain sharing from employees without any trade-off or like benefit as a replacement. The logic behind this decision was essentially that employees could read and should read pension law.

This is an interesting point since it took a whole team of lawyers from the Attorney General's Office 90 days to complete research and formulate this opinion. The State of Washington, it appears, expects a 3rd grade teacher to be able to read pension law and understand this immediately upon signing their first teaching contract. This is not a reasonable expectation! Even those TRS Plan 2 members who choose to switch into TRS Plan 3 when it became available were **never** given pension law as one of the documents to consume. Here is what I was given:

- A packet of information concerning my investment options,
- An explain of benefits...defined benefit, defined contribution, and gain sharing,
- A form to fill out in order to transfer into TRS Plan 3.

I was not given WAC's, RCW's or any document explaining Washington State Pension Law. In the presentation seminars I attended to learn more about TRS Plan 3 there were many questions. Gain sharing was a topic that was brought up often and it was described as a benefit that could not be guaranteed in value since it was tied to market performance. This seemed reasonable to me but it was never presented as a benefit that could be taken at the whim of the legislature. The lack of a "Guarantee" described the inability to determine future earnings not that this entire benefit could be taken out of my pension plan. I feel completely "sleazed." The State of Washington did the classic used-car-salesman trick of bait and switch. Now, I am told that I should have read the "fine print." What a crock!

As a 47-year-old teacher with 24 years of service to the children and taxpayers of the State of Washington I am disgusted! Teacher pension plans in Washington are nearly the worst in the United States. I am willing to trade

the gain sharing benefit for a True Rule of 90 but nothing less. This trade still saves the State approximately \$2 billion over 25 years and addresses the age 65 issue in our public pension plans. This trade off for gain sharing is the minimum acceptable. The Select Committee on Pension Policy has an opportunity to do the right thing. I am asking for a response from each SCPP member as to his or her position on the gain-sharing take away. Do you believe it is the right thing to do without trade? An email response at the address below would be sufficient.

Looking forward to hearing from all,



Randy Davis

351 Alta Via Drive

Camano Island, WA 98282

marysvillecoach@hotmail.com

360.387.2315

CC: Governor Christine Gregoire

Burkhart, Kelly

Subject: FW: States with Plan transfer options

From: Ron Snell
Sent: Wednesday, November 09, 2005 8:06 AM
To: Baker, Robert
Subject: Re: States with Plan transfer options

Bob, there are a few examples of DC plans whose members, under specified conditions, can transfer to DB plans.

In **Ohio**, PERS members, and I beleive TRS members may change from DB to DC (or vice versa) at three points as this selection from the PERS employee handbook indicates:

Ohio PERS members eligible to select a plan will have three opportunities to change their retirement plan selection based on the following guidelines:

- Once prior to attaining five years of total service credit or contributing months;
- Once after attaining five years, but no more than 10 years of total service credit or contributing months; and
- Once at any point after attaining 10 years of total service credit or contributing months.

I have not checked the Ohio TRS handbook, but I belirve that similar options exist for TRS members.

The **Florida** Retirement System (FRS) also has provision for moving between the defined benefit and defined contribution plans. I was unable to copy information into this email, but this is a link to the FRS page called "switching plans." FRS covers state and local government employees and teachers. The option is one-time, apparently after five years of membership, and can entail becoming a member of both plans, active in one, inactive in the other. https://www.myfrs.com/content/fa/finguide_pswitch.html

In **South Carolina**, according to the S.C. Retirement System handbook *Select Your Retirement Plan* <http://www.retirement.sc.gov/publications/select.pdf>

members who initially select the Optional Retirement Plan, which is DC (the default in South Carolina is DB) have one opportunity to switch to the DB plan. It occurs after one year of membership in the DC, that is the Optional Retirement Plan, and before completing five years of membership. Such a change is irrevocable. Apparently there is no opportunity to change after five years in the DC plan.

Alaska, in creating its two DC plans for state/local employees and for teachers in 2005, closed the two DB plans to new membership, and I saw nothing in the legislation to indicate that a change to a DB plan would be available in the future.

Michigan does not allow such a change from DC to DB.

West Virginia closed its DC plan for teachers in 2005 and reopened its old Teachers' Retirement System DB plan for people hired after July 1, 2005. The DB plan had been closed to new enrollment since the DC plan was established in 1991. The members of the DC plan will vote in March 2006 whether to transfer as a group to the DB plan. The transfer will occur if (1) 50% or more of the DC plan members vote and if (2) 50% or more of those voting choose the transfer. A court challenge is expected, no matter how the election may turn out. The existing legislation does not allow individual members to transfer membership.

I hope this is helpful. Please let me know if I can be of further assistance.

Ron Snell
NCSL, Denver
303-856-1534

11/14/2005

November 18, 2005

Governor Christine Gregoire
P.O.Box 40002
Olympia WA 98504-0002

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NOV 22 2005

Office of
The State Actuary

Dear Governor,

I want to commend you for taking a firm stand against the federal government's effort to cut spending for a waste treatment plant at the Hanford Nuclear reservation. I agree that it is unconscionable for the federal government to break its commitment to clean up the Hanford project.

I also would like to request that your budget director be directed to place a line item budget amount into the 2006 supplemental budget to provide for the "buy out of gain sharing", a 1998 legislative commitment to active and retirees of Plan I and Plan III members of the state retirement system to share in what was called extra ordinary gains.

Gain sharing was a good faith legislative commitment to share with active and retirees when the investment market exceeded a 10% average return over four years. This past session the legislature had prepared legislation, HB1043 to repeal the "gain sharing" benefit that was previously negotiated in good faith and approved as an active and retiree benefit. Gain sharing is a part of the COLA benefit to reduce the loss of purchasing power for Plan I retirees.

On 11/2/05 the Select Committee on Pension Policy received an Attorney General's opinion on gain sharing which stated that gain sharing is not a contractual right. If the legislature decides to repeal gain sharing as it proposed last session, in HB 1043, it is only appropriate that an agreed upon buy out replacement benefit be provided. It would be unconscionable for the legislature to repeal this legislative approved benefit without a mutually agreed replacement benefit.

Please place a good faith budget estimate as a line item in your supplemental budget which would be used for the buy out of the gain sharing benefit.

I repeat, it would be unconscionable for the legislature to repeal this benefit without an acceptable replacement benefit. The legislature has for too many years used under funding of the pension system to balance the state budget.

Sincerely,



Robert Warnecke
Past Legislative Chair
Washington School Retirees Association
1033 South 9th Street
Mount Vernon, WA 98274

copy to: Representative Bill Fromhold
Chair SCPP

